

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

INTERNATIONAL UNION OF OPERATING  
ENGINEERS, STATIONARY ENGINEERS  
LOCAL 39 PENSION TRUST FUND,  
individually and on behalf of all others similarly  
situated,

Plaintiff,

v.

THE BANK OF NEW YORK MELLON  
CORPORATION, *et al.*,

Defendants.

No. C 11-03620 WHA

**ORDER DENYING MOTION  
TO DISMISS AS MOOT**

Pursuant to an order to elect, plaintiff elected to file an amended complaint by January 5, 2012. Plaintiff timely filed its amended complaint. Therefore the previously filed motion to dismiss is **DENIED AS MOOT**. The parties shall comply with the expedited briefing schedule for a joint motion to dismiss set forth in the order dated December 21, 2011 (Dkt. No. 65).

**IT IS SO ORDERED.**

Dated: January 6, 2012.

  
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WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE